UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD REGION 8

COMMUNICATION WORKERS OF AMERICA AND COMMUNICATION WORKERS OF AMERICA LOCAL, 4309 (AT&T TELEHOLDINGS, INC. DBA AT&T MIDWEST AND THE OHIO BELL TELEPHONE COMPANY-Employer)

and

Case No. 08-CB-010487

SANDA ILIAS, an Individual

COUNSEL FOR THE ACTING GENERAL COUNSEL'S RESPONSE TO RESPONDENT'S MOTION TO STRIKE

Susan Fernandez Counsel for the Acting General Counsel National Labor Relations Board Region 8 1240 E. 9th Street, Room 1695 Cleveland, Ohio 44199

Dated: January 9, 2013

On January 8, 2013, Respondent filed a motion to strike the Acting General Counsel's opposition to Respondent's motions to reopen or supplement the record.

Respondent argues that, pursuant to Section 102.24 of the Board's Rules and Regulations, General Counsel's response was not promptly filed and the Board should not consider it.

The General Counsel respectfully urges that the salient point to be considered is the fact that the Respondent's motion to introduce additional evidence is still pending before the Board. Thus, despite the passage of time since Respondent moved to reopen the record, the General Counsel's opposition will assist the Board in making a determination on the merits of Respondent's request to submit additional evidence in this matter. It is also particularly noteworthy that Respondent did not assert that it would be prejudiced in any way if the Board considered the General Counsel's opposition. Thus, there is no apparent harm to Respondent if the Board overrules the motion to strike and considers the General Counsel's opposition to reopen or supplement the record.

Respondent further argues that the opposition to reopen the record should not be considered because the General Counsel did not request an extension of time pursuant to Rule 102.111(b) of the Board's Rules and Regulations. Respondent correctly notes that Rule 102.111(b) allows for extension of time only if the request is filed by the date the document in question is due. However, Rule 102.111(b) does not apply to the present matter. There was no specific date by which the opposition to Respondent's motion was due. Accordingly, Rule 102.111(b) should not serve as a basis to strike General Counsel's opposition.

Section 102.121 of the Board's Rules and Regulations, moreover, provides that

the rules and regulations should be liberally construed to effectuate the purposes and

policies of the Act. The purposes and policies of the Act would be best served by

consideration of the General Counsel's position in this matter. The General Counsel

therefore respectfully requests that the Board deny Respondent's motion to strike and

consider the opposition to Respondent's motions.

Dated at Cleveland, Ohio this 9th day of January, 2013,

Respectfully submitted,

Susan Fernandez

Susan Fernandez

Counsel for the Acting General Counsel

National Labor Relations Board

Region 8

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PROOF OF SERVICE

Copies of the foregoing Response to Respondent's Motion to Strike were served on January 9, 2013 by electronic mail on Theodore E. Meckler, Esq., Communications Workers of America, 20505 Center Ridge Road, Room 700, Cleveland, Ohio 44116, Email: tmeckler@cwa-union.org and John Scully, Esq., National Right to Work Legal Defense Foundation, 8001 Braddock Road, Suite 600, Springfield, VA 22166, Email: jcs@nrtw.org.

<u>Susan Fernandez</u>

Susan Fernandez, Counsel for the Acting General Counsel Region 8